



Maryland Department of Planning

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Governor

Anthony G. Brown
Lt. Governor

Richard Eberhart Hall
Secretary

Matthew J. Power
Deputy Secretary

July 13, 2007

Ms. Gail Webb Owings
Planning Director
Kent County Department of Planning, Housing and Zoning
400 High Street
Chestertown, MD 21620

Dear Ms. Owings:

The Maryland Department of Planning has completed the coordinated review of the update to the Worton-Butlertown Village Master Plan.

The draft Plan was sent to the Maryland Departments of Transportation, Environment, Natural Resources, Business and Economic Development, Housing and Community Development, Agriculture, and the Maryland Emergency Management Agency. To date, comments have been received from the Maryland State Highway Administration, Maryland Historical Trust, Maryland Department of the Environment and Natural Resources these are included. Any additional comments received after the date of this letter will be forwarded to you upon receipt.

Our planning staff has reviewed the proposed update for consistency with the Planning Act of 1992, the Smart Growth Areas Act of 1997, and other State growth management principles and policies. Our review comments are attached for your consideration.

Please contact Mr. Mark Gradecak at 410-819-4080 or me at 410-767-4620 if you have any questions about these comments or if we can be of any further assistance. The Maryland Department of Planning looks forward to continued planning coordination with Kent County.

Sincerely,



Stephanie Martins
Director, Land Use Analysis and Planning Assistance

attachments

cc: Mark Gradecak

Worton-Butlertown Village Master Plan Comments:

Development Capacity/ Build Out Analysis

We commend the County on its incorporation of a build out analysis in the draft plan; however, it is unclear from the draft plan the role this analysis will play in future planning. The connection between demand (population) and supply (land) has not been identified.

Table 4-2, Future Development Capacity, shows Short-Term (10-15 year) capacity as 450 new residential units. This differs considerably from Growth Policy 2 (4-1), also footnoted in table 4-2, which states that the "number of new residential units per year permitted in the Growth Area will be capped at 15, through a Sewer Allocation System. Table 4-2 should reflect the actual permitted capacity for that time-frame, (i.e. 10-15 year = 225 new dwelling units). The cap reflects the current limited water and sewer capacity, once updates are completed, capacity will increase and development will proceed. If this cap will be lifted before the 15 year horizon, this should be noted and reflected in the build out figures. Additionally, population projections should be provided to determine if there is the proper balance between land supply and demand.

- Provide too little land for development (be it on greenfields, redevelopment, or infill), and the land cost will become too high or development may spill over to adjacent jurisdictions.
- Provide too much land for development and it will tend to be used inefficiently. In addition, plans and growth controls will be marginalized because there are an abundance of locational options for each new development.

Maryland's local governments committed to performing this analysis as part of their comprehensive plan updates via the Development Capacity Analysis Local Government MOU (signed by the Maryland Municipal League and Maryland Association of Counties in August, 2004) and the Development Capacity Analysis Executive Order (signed by Governor Ehrlich in August, 2004).

These agreements were commitments to implement the recommendations made by the Development Capacity Task Force, which are outlined in their July, 2004 report (the full report is available at: http://www.mdp.state.me.us/develop_cap.htm)

Priority Funding Areas

The plan states on page 4-2 that the future growth area for the Village will follow Priority Funding Area (PFA) boundaries. There are currently several parcels located outside the growth boundary that are PFAs. While the County notes that they will resubmit their PFA designations it would be helpful to include a map of the future or proposed PFAs to ensure that these areas are consistent with PFA law. Additionally, it should be noted that

the plans intentions to downzone several properties from Village 1 to Village 2 will jeopardize these properties PFA certification status. If these areas do not meet PFA certification criteria, they will become comment PFA and will not be eligible for state funding.

Miscellaneous

Page i – Land use and zoning. “The number of new housing units per year in the Village Master Plan Growth Area would be capped at 15.” We have been unable to locate findings in the text that support implementing such a cap. Is there a rational nexus to a water, sewer, or other public facilities capacity issue? Does Kent County have an adopted Adequate Public Facilities Ordinance that links capacity issues to an allocation policy that supports a 15 du/year cap? If not, it appears that this may be an arbitrary limitation arrived at by a consensus of decision-makers and we caution that such a cap may be considered arbitrary and without legal basis. Case law in Massachusetts supports such an observation. (see *Zuckerman v. Town of Hadley* in which the Judicial Supreme Court of Massachusetts held that the Town’s growth management quota was unconstitutional as a violation of substantive due process)

Page 1-3- the word “DATE” should be replaced with the actual calendar dates of the plan hearings.

Page 3-18 – We question the labeling of certain images as “Prairie Style” houses. The illustrated examples lack a number of generally accepted architectural elements that define the Prairie Style.

Page 4-6 – figure 4-3 The discussion addresses pedestrian/bicycle safety and relative highway speeds suggesting that wider lines and more prominent shoulder striping (as exemplified by roads in Anne Arundel County, MD) are preferable. It may be that such “improvements” will in fact induce higher vehicle speeds and result in less pedestrian/bicycle friendly environments. The discussion at the top of page 4-7 supports the same conclusions. We suggest that some clarification (in regard to the text accompanying the photographs) would reduce the likelihood of reader confusion.

Page 5-2 – Table 5-1 promotes lot sizes that do not conform to State Smart Growth standards. It appears that all of the proposed Village-2 zone will fail the Priority Funding Area density test. This means that significant reductions in PFA status are likely in the existing Worton-Butlertown growth area/PFA. The potential impacts on infrastructure funding could be substantial, and the Maryland Department of Planning discourages downzoning that will jeopardize future projects in Kent County’s primary growth area.

Page 5-5 – The discussion on anticipated community service facility infrastructure needs should be expanded to clarify that Kent County taxpayers will bear the full cost of all infrastructure improvements needed to support development in the Village-2

zone and any other areas that may be determined to fail the density test for PFA certification.

Page 5-6 – The discussion on aesthetics introduces five bulleted topics by provides no policy guidance regarding what is desired nor an criteria for determining what differentiates a “good” project from a “bad” project. Also, implementation actions provide no opportunity to improve any aspects of existing community character by not providing for any design flexibility with regard to progressive styles, designs or technologies. “New development will be considered successful when it looks like it has always been there...” There is a difference between “compatible” and “consistent.”

Pages A-31 and A-34 – What is the site locations and orientation? Insufficient information is presented to adequately locate these example (and judge their purpose or usefulness).

Page A-35 – The proposed density in this table are not consistent with State Smart Growth principles and priorities. The PFA status of the county’s primary growth area is jeopardized.

Page A-41 – The discussion on “affordable dwelling unit” requirements is indexed as “affordable for people living and working in Kent County.” That is not a good working definition, especially for purposes of supporting potential requests for State housing assistance. The discussion would benefit from a discussion of median household incomes in the Worton-Butlertown growth area. Possible requests for Block Grant assistance will require a community income survey.

Community Service Facilities, restate the earlier need for clarification that much of the existing mapping for the Worton-Butlertown PFA will be redesignated as a “comment area” indicating it no longer meets PFA certification thresholds.

Page A-44 - Development Capacity Calculation Table. The likely development numbers for the two principal development sites (to be zoned V-1) will provide gross yields of 1.88 du/acre and 2.24 du/acre. This does not appear to support Smart Growth principles or policies.

Page A-46 steering committee comments re: annual growth cap is not supported by a rational nexus to APFO standards or infrastructure capacity. Limits should not be established on the basis of a “popularity contest.”